



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7**

11201 Renner Boulevard
Lenexa, Kansas 66219

26 FEB 2016

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Article No.: 7013 3020 0001 1645 8809

Ms. Dolores Davidson
Registered Agent
H.D. Backhoe Services, LLC
109 East Hydraulic Street
Yorkville, Illinois 60560

Re: Request for Information Pursuant to section 308(a) of the Clean Water Act, 33 U.S.C. 1318(a)

Dear Ms. Davidson:

The U.S. Environmental Protection Agency is issuing this Request for Information to H.D. Backhoe Services, LLC, pursuant to Section 308(a) of the Clean Water Act, 33 U.S.C. § 1318(a). The request seeks information regarding the Company's compliance with federal regulations governing the land application of domestic septage found at 40 C.F.R. Part 503.

Section 308 of the CWA authorizes the EPA to require the submission of any information necessary to carry out the objectives of the CWA. The requested information must be provided to the EPA in accordance with the instructions in the enclosure. The enclosure specifies the information that you must submit. The agency requires you to provide the information requested in the enclosure **within thirty (30) calendar days of receipt of this letter**. Please read the instructions in the enclosure carefully before preparing your responses.

Please be advised that failure to respond accurately, or the submission of false information, may subject the Company to civil or criminal penalties under Section 309 of the CWA, 33 U.S.C. § 1319, and/or 18 U.S.C. § 1001. Further, note that the Agency reserves the right to pursue appropriate enforcement actions under Section 309 of the CWA, including penalties, for violations of the Act.

The information required by this request must be submitted notwithstanding any claim you may have concerning confidentiality. You may assert a claim of business confidentiality for any portion of the submitted information under the provisions of 33 U.S.C. § 1318 and 18 U.S.C. § 1905. The Agency will consider and process such a request pursuant to such statutes and the agency regulations at 40 C.F.R. Part 2, Subpart B. If no claim of confidentiality accompanies the information received, the Agency may make the information available to the public without further notice to you. If you assert a confidentiality claim for any of the information you provide to the Agency, you must prove that claim. Please note that pursuant to 40 C.F.R. § 2.302, effluent data, as defined therein, is not eligible for confidential treatment.



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For your information, a link is provided below to *Domestic Septage Regulatory Guidance*, an agency publication, which might be of assistance to you. This document can be found at:
<http://www.epa.gov/biosolids/guide-federal-epa-rule-land-application-domestic-septage-non-public-contact-sites>.

This Request for Information is being sent through the Agency's Biosolids Center located in the EPA Region 7 office in Lenexa, Kansas. As the enclosed instructions indicate, the response to this Request for Information is to be sent to the EPA, Region 7. We appreciate your cooperation and prompt attention to this matter. If you have any questions regarding this information request, please contact Tony Petruska in the EPA's Biosolids Center at (913) 551-7637, or by e-mail to petruska.anthony@epa.gov.

Sincerely,



Karen A. Flournoy

Director

Water, Wetlands and Pesticides Division

Enclosure

cc: Todd Drefcinski, Kendall County Health Department
Dean Maraldo, EPA Region 5

ENCLOSURE A

INFORMATION REQUEST AND INSTRUCTIONS

The following information is requested by the U.S. Environmental Protection Agency pursuant to Section 308 of the Clean Water Act, 33 U.S.C. § 1318.

I. Instructions

1. Please provide a separate response to each and every request set forth below. Please label each response in a manner that identifies the number of the question or document request.
2. If any response cannot be provided in full, provide the response to the extent possible along with an explanation of why the response cannot be provided in its entirety.
3. Except for a cover letter or memorandum and the Statement of Certification, only copies, and not original documents, should be submitted pursuant to this request. Documents and data may be submitted on a compact disc in PDF, Word, Excel or other widely available electronic format.
4. In each submission required by this Information Request, identify the person to contact regarding your submission, including title, address and phone number.
5. Your responses to this Information Request are to be provided by a qualified professional. For each response required below, provide the name and credentials of the person(s) providing information in response to this Information Request.
6. If information or documents not known or not available to you as of the date of submission of your response to this request should later become known or available to you, you must supplement your response to the EPA within fourteen (14) calendar days of when the information or documents become known or available. Moreover, should you find, at any time after the submission of your response, that any portion of the submitted information is inaccurate, false or misrepresents the truth, you must notify the EPA of this fact immediately and provide a corrected response within fourteen (14) calendar days of when you find the information is false or misrepresents the truth.
7. Confidential Business Information. Information requested by this letter must be submitted to the EPA regardless of a claim of confidentiality. If you believe any of the requested information is confidential, you may assert a business confidentiality claim under the provisions of Section 308(a) of the Clean Water Act, 33 U.S.C. § 1318(a), and 18 U.S.C. § 1905, and the regulations at 40 C.F.R. Part 2, and in the manner described at 40 C.F.R. § 2.203(b). If the EPA determines the information you have designated meets the criteria in 40 C.F.R. § 2.208, the information will be disclosed only to the extent and by means of the procedures specified in Subpart B. Unless a confidentiality claim is asserted at the time the requested information is submitted, the EPA may make the information available to the public without further notice to you. See Attachment B for additional instructions on supplying confidential information.
8. Accurate and Truthful Information Required. Compliance with this information request is mandatory. Please be advised that the failure to respond accurately, or the submission of false

information, may subject you to civil or criminal penalties under Section 309 of the CWA, 33 U.S.C. § 1319, and/or 18 U.S.C. § 1001. Please be aware that the issuance of this letter and your response with the requested information does not relieve you of any responsibility under the CWA, including but not limited to seeking, maintaining, or complying with an applicable NPDES permit.

9. You must submit all requested information under an authorized signature with the following certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, which include the possibility of fine and imprisonment for knowing violations.

10. Submission of Response to Information Request. All responses to this Information Request must be submitted within the timeframes identified in Section III, below. Each response should be submitted in a manner that allows you to track delivery and must be submitted to:

**Tony Petruska
Environmental Protection Specialist
U.S. Environmental Protection Agency
Water, Wetlands and Pesticides Division
Water Enforcement Branch
11201 Renner Boulevard
Lenexa, Kansas 66219**

II. Definitions

All terms used in this Information Request that are not defined below shall be defined as they are defined at Section 502 of the CWA, 33 U.S.C. § 1362, and at 40 C.F.R. §§ 503.9, 503.11, 503.21, 503.31, 503.41 and 122.2. Unless otherwise indicated, the following definitions shall apply strictly for the purposes of this Information Request:

1. "Record" is defined as any recording of information in tangible form. It includes, but is not limited to, in print or electronic form, documents, memoranda, reports, letters, maps, graphs, charts, log books, notes, computer print outs and computer data bases.
2. "Document" is defined as any writings, drawings, graphs, charts, photographs, phone records, electronic mail, facsimile, and other data compilations from which information can be obtained, translated if necessary, through detection devices into reasonably usable form. Documents should be produced as they are kept in the usual course of business.
3. "Biosolids" is defined as sewage sludge generated during the treatment of domestic sewage in a treatment works.

4. "Sewage sludge" is defined at 40 C.F.R. § 503.9 and includes domestic septage.
5. "Domestic Septage" is defined at 40 C.F.R. § 503.9 and includes liquid or solid material removed from a septic tank, cesspool, portable toilet, type III marine sanitation device, or similar treatment works that receives only domestic sewage.

III. Requested Information

Within thirty (30) days of receipt of this information request, provide the following information:

1. For each land application of domestic septage by H.D. Backhoe Services, LLC, since January 1, 2014, provide the information listed below. This should include information regarding the land application of domestic septage on or near property owned by Mr. Bob Frieders in or near Yorkville, Illinois.
 - a. The street address or legal description of the location;
 - b. The date(s) upon which the location was used for land application of domestic septage;
 - c. The number of acres upon which domestic septage was land applied;
 - d. The number of loads applied;
 - e. The quantity, in gallons, of domestic septage land applied;
 - f. A description of the method(s) used to determine compliance with the pathogen reduction requirements of 40 C.F.R. Part 503;
 - g. A description of the method(s) used to determine compliance with the vector attraction reduction requirements of 40 C.F.R. Part 503;
 - h. A description of how the site restrictions of 40 C.F.R. § 503.32(b)(5) were met; and
 - i. The annual application rate of domestic septage as calculated by equation (1) at 40 C.F.R. § 503.13(c) for the calendar years 2014 and 2015.
2. Provide all records regarding land application of domestic septage maintained by H.D. Backhoe Services, LLC, since January 1, 2014 including:
 - a. Specific records identifying how the pathogen requirements were met in accordance with 40 C.F.R. § 503.32(c);
 - b. Specific records identifying how the vector attraction reduction requirements were met in accordance with 40 C.F.R. § 503.33(b)(9), (10) or (12); and
 - c. All written operating procedures describing the handling, treatment and pumping of domestic septage by H.D Backhoe Services LLC personnel.

ENCLOSURE B

INSTRUCTIONS FOR SUBMITTING CONFIDENTIAL INFORMATION

You must provide the information requested even though you may contend that it includes confidential information. You may assert a business confidentiality claim covering all or part of the information requested in this Information Request, as provided in 40 C.F.R. § 2.203(b). Please note that “effluent data” – as defined in 40 C.F.R. § 2.302(a)(2) – provided to the U.S. Environmental Protection Agency pursuant Section 308 of the Act, 33 U.S.C. § 1318, is not entitled to confidential treatment under 40 C.F.R. § 2.

To assert a confidentiality claim, you must submit the requested information and indicate that you are asserting a claim of confidentiality. You must mark any document over which you assert a claim of confidentiality by attaching a cover sheet stamped or typed with a legend indicating your intent to claim confidentiality. The stamped or typed legend, or other suitable form of notice, should employ language such as “confidential” or “business confidential,” and indicate a date, if any, when the information should no longer be treated as confidential. The EPA will only disclose the information covered by such a claim to the extent permitted and by means of the procedures set forth in Section 308(b) of the Clean Water Act, 33 U.S.C. § 1318(b), and 40 C.F.R. § 2. You must clearly identify allegedly confidential portions of otherwise non-confidential documents.

Please submit your response to this Information Request so that all non-confidential information, including any redacted versions of documents, is in one envelope and all materials for which you desire confidential treatment are in another envelope. The EPA will construe the failure to furnish a confidentiality claim with your response as a waiver of that claim, and the information may be made available to the public without further notice to you. All confidentiality claims are subject to the EPA verification. It is important that you satisfactorily show that you have taken reasonable measures to protect the confidentiality of the information, that you intend to continue to do so, and that the information is not and has not been obtainable by legitimate means without your consent.

If you assert a confidentiality claim for any of the information you submit to the EPA, you bear the burden of substantiating that claim. The EPA will give conclusory allegations little or no weight in its determination. For each document or response you claim confidential, you must separately address the following points:

- a. The portions of the information alleged to be entitled to confidential treatment;
- b. The period of time for which confidential treatment is desired (*e.g.*, until a certain date, until the occurrence of a specific event, or permanently);
- c. Measures taken by you to guard against the undesired disclosure of the information to others;
- d. The extent to which the information has been disclosed to others; and the precautions taken in connection therewith;

- e. Pertinent confidentiality determinations, if any, by EPA or other federal agencies, and a copy of any such determinations or reference to them, if available; and
- f. Whether you assert that disclosure of the information would likely result in substantial harmful effects on your business' competitive position, and if so, what those harmful effects would be, why they should be viewed as substantial, and an explanation of the causal relationship between disclosure and such harmful effects.

Finally, the EPA may disclose information which you submit in response to this Information Request to authorized representatives of the United States pursuant to 40 C.F.R. § 2.302(h) even if you assert that all or part of the information is confidential business information. Please be advised that the EPA may disclose all responses to this Information Request to one or more private contractors for the purpose of organizing and/or analyzing the information contained in the responses to this Information Request. If you are submitting information which you assert is entitled to confidential treatment, you may comment on this potential disclosure to authorized representatives when you submit your response to this Information Request.